

APR 21 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SERGIO TARANGO-ROJERO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-75126

Agency No. A77-959-691

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 13, 2006**

Before: SILVERMAN, McKEOWN, and PAEZ, Circuit Judges.

Sergio Tarango-Rojero, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's ("IJ") order of removal. We have jurisdiction pursuant to 8

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

U.S.C. § 1252. We review constitutional and legal questions de novo.

Iturribarria v. INS, 321 F.3d 889, 894 (9th Cir. 2003). We deny the petition for review.

The BIA properly determined that Tarango-Rojero knowingly and intelligently waived his statutory right to be represented by counsel of his choice, where the IJ informed Tarango-Rojero of his right to counsel, asked him whether he wanted a continuance, and Tarango-Rojero responded that he wanted to represent himself. *See Tawadrus v. Ashcroft*, 364 F.3d 1099, 1103 (9th Cir. 2004).

Even if the IJ gave Tarango-Rojero insufficient time to seek relief from his criminal conviction, Tarango-Rojero's due process contention fails because he has not demonstrated he was prejudiced by the IJ's actions. *See Halaim v. INS*, 358 F.3d 1128, 1136 (9th Cir. 2004) (holding petitioner must show prejudice to prevail on due process claim).

PETITION FOR REVIEW DENIED.